

Introduced by Senator Kehoe

February 18, 2005

An act to amend Section 8686 of the Government Code, and to amend Sections 17207 and 24347.5 of, and to add Sections 195.92, 195.93, and 195.94 to, the Revenue and Taxation Code, relating to taxation, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 457, as introduced, Kehoe. Disaster relief.

(1) Existing law authorizes a county board of supervisors to provide by ordinance for the reassessment of property that is damaged or destroyed, without fault on the part of the assessee, by a major misfortune or calamity, upon the application of the assessee or upon the action of the county assessor with the board's approval. With respect to certain counties that have adopted reassessment ordinances and have been declared by the Governor to be in a state of disaster as a result of certain events, existing law provides for state allocations of the estimated amounts of the reductions in property tax revenues resulting in certain fiscal years from reassessments under those ordinances. Existing law also continuously appropriates, without regard to fiscal years, moneys in the Special Fund for Economic Uncertainties for purposes of funding these state allocations.

This bill would provide for similar state allocations with respect to property tax revenue reductions, resulting from a reassessment ordinance, incurred by the Counties of Kern, Los Angeles, Orange, Riverside, San Bernardino, San Diego, and Santa Barbara, which were declared by the Governor to be in a state of disaster as a result of a series of severe rainstorms that occurred in those counties during December 2004 and January 2005. By requiring moneys continuously

appropriated from the Special Fund for Economic Uncertainties to be allocated for the new purpose of reimbursing these counties for these property tax revenue reductions, this bill would make an appropriation.

(2) The Natural Disaster Assistance Act provides for, among other things, specified allocations to local agencies with respect to natural disasters.

This bill would include within those provisions the disaster that occurred in the Counties of Kern, Los Angeles, Orange, Riverside, San Bernardino, San Diego, and Santa Barbara as a result of the severe rainstorms during December 2004 and January 2005, as provided.

(3) The Personal Income Tax Law and the Corporation Tax Law provide for the carryover to specified taxable years of specified losses sustained as a result of certain disasters occurring in California in an area determined by the President of the United States to warrant specified federal assistance, or proclaimed by the Governor to be in a state of disaster.

This bill would extend these provisions to losses sustained as a result of the series of severe rainstorms and related events that occurred in the Counties of Kern, Los Angeles, Orange, Riverside, San Bernardino, San Diego, and Santa Barbara in December 2004 and January 2005. This bill would also authorize a taxpayer to make an election to claim a deduction for those losses on the tax return for the preceding year.

(4) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 8686 of the Government Code is
2 amended to read:

3 8686. (a) For any eligible project, the state share shall
4 amount to no more than 75 percent of total state eligible costs.

5 (b) Notwithstanding subdivision (a), the state share shall be up
6 to 100 percent of total state eligible costs connected with the
7 following events:

8 (1) The October 17, 1989, Loma Prieta earthquake.

1 (2) The October 20, 1991, East Bay fire.

2 (3) The fires that occurred in southern California from October
3 1, 1993, to November 30, 1993, inclusive.

4 (4) The January 17, 1994, Northridge earthquake.

5 (5) Storms that occurred in California during the periods
6 commencing January 3, 1995, and February 13, 1995, as
7 specified in agreements between this state and the United States
8 for federal financial assistance.

9 (6) The storms that occurred in California in December of
10 1996 and early January of 1997, as specified in agreements
11 between this state and the United States for federal financial
12 assistance.

13 (7) The winter storms and flooding that occurred from
14 February 1, 1998, to April 30, 1998, inclusive, as specified in
15 agreements between this state and the United States for federal
16 financial assistance.

17 (8) The wildfires that occurred in southern California
18 commencing October 21, 2003, as specified in agreements
19 between this state and the United States for federal financial
20 assistance.

21 (9) The December 22, 2003, San Simeon earthquake, as
22 specified in agreements between this state and the United States
23 for federal financial assistance.

24 *(10) The severe rainstorms, and related flooding, slides, and*
25 *other events, that occurred in the Counties of Kern, Los Angeles,*
26 *Orange, Riverside, San Bernardino, San Diego, and Santa*
27 *Barbara in December 2004 or January 2005.*

28 (c) For any federally declared disaster subsequent to January
29 1, 1995, that the Legislature has designated in subdivision (b),
30 the state shall assume the increased share specified in subdivision
31 (b) in those cases where the Federal Emergency Management
32 Agency or another applicable federal agency has approved the
33 federal share of costs.

34 (d) The state shall make no allocation for any project
35 application resulting in a state share of less than two thousand
36 five hundred dollars (\$2,500) under this section.

37 SEC. 2. Section 195.92 is added to the Revenue and Taxation
38 Code, to read:

39 195.92. (a) By September 30, 2005, the auditors of the
40 Counties of Kern, Los Angeles, Orange, Riverside, San

1 Bernardino, San Diego, and Santa Barbara, which counties were
2 the subject of the Governor's Proclamation of a state of
3 emergency for the severe rainstorms that occurred in December
4 2004 or January 2005, that caused flash floods, mudslides, the
5 accumulation of debris, and that washed out and damaged roads
6 in those counties, shall certify to the Director of Finance an
7 estimate of the total amount of the reduction in property tax
8 revenues on both the regular secured roll and the supplemental
9 roll for the 2004–05 fiscal year resulting from the reassessment
10 by the county assessor pursuant to paragraph (1) of subdivision
11 (a) of Section 170 of those properties that are eligible properties
12 as a result of that disaster, except that the amount certified shall
13 not include any estimated property tax revenue reductions to
14 school districts, other than basic state aid school districts, and
15 county offices of education.

16 (b) For purposes of this section, "basic state aid school
17 district" means any school district that does not receive a state
18 apportionment pursuant to subdivision (h) of Section 42238 of
19 the Education Code, but receives from the state only a basic
20 apportionment pursuant to Section 6 of Article IX of the
21 California Constitution.

22 SEC. 3. Section 195.93 is added to the Revenue and Taxation
23 Code, to read:

24 195.93. After the county auditor of an eligible county, as
25 described in Section 195.92, has made the applicable certification
26 to the Director of Finance pursuant to that section, the director
27 shall, within 30 days after verification of the county auditor's
28 estimate, certify this amount to the Controller for allocation to
29 the county. Upon receipt of certification from the Director of
30 Finance, the Controller shall make the appropriate allocation to
31 the county within 10 working days.

32 SEC. 4. Section 195.94 is added to the Revenue and Taxation
33 Code, to read:

34 195.94. (a) On or before June 30, 2006, each eligible county,
35 as described in Section 195.92, shall compute and remit to the
36 Controller for deposit in the General Fund an amount equal to the
37 amount allocated to it by the Controller pursuant to Section
38 195.93, less the actual amount of its property tax revenue lost on
39 the regular secured and supplemental rolls with respect to those
40 eligible properties described in Section 195.92 as a result of the

1 reassessment of those properties pursuant to paragraph (1) of
2 subdivision (a) of Section 170, excluding any property tax
3 revenue lost by school districts, other than basic state aid school
4 districts, and county offices of education. If the actual amount of
5 property tax revenue lost by an eligible county in the
6 immediately preceding fiscal year, as described and limited in the
7 preceding sentence, exceeds the amount allocated by the
8 Controller to that county pursuant to Section 195.93, the
9 Controller shall allocate the amount of that excess to that eligible
10 county.

11 (b) For purposes of this section, “basic state aid school
12 district” means any school district that does not receive a state
13 apportionment pursuant to subdivision (h) of Section 42238 of
14 the Education Code, but receives from the state only a basic
15 apportionment pursuant to Section 6 of Article IX of the
16 California Constitution.

17 SEC. 5. Section 17207 of the Revenue and Taxation Code is
18 amended to read:

19 17207. (a) An excess disaster loss, as defined in subdivision
20 (c), shall be carried to other taxable years as provided in
21 subdivision (b), with respect to losses resulting from any of the
22 following disasters:

23 (1) Forest fire or any other related casualty occurring in 1985
24 in California.

25 (2) Storm, flooding, or any other related casualty occurring in
26 1986 in California.

27 (3) Any loss sustained during 1987 as a result of a forest fire
28 or any other related casualty.

29 (4) Earthquake, aftershock, or any other related casualty
30 occurring in 1987 in California.

31 (5) Earthquake, aftershock, or any other related casualty
32 occurring in 1989 in California.

33 (6) Any loss sustained during 1990 as a result of fire or any
34 other related casualty in California.

35 (7) Any loss sustained as a result of the Oakland/Berkeley Fire
36 of 1991, or any other related casualty.

37 (8) Any loss sustained as a result of storm, flooding, or any
38 other related casualty occurring in February 1992 in California.

39 (9) Earthquake, aftershock, or any other related casualty
40 occurring in April 1992 in the County of Humboldt.

1 (10) Riots, arson, or any other related casualty occurring in
2 April or May 1992 in California.

3 (11) Any loss sustained as a result of the earthquakes that
4 occurred in the County of San Bernardino in June and July of
5 1992, or any other related casualty.

6 (12) Any loss sustained as a result of the Fountain Fire that
7 occurred in the County of Shasta, or as a result of either of the
8 fires in the Counties of Calaveras and Trinity that occurred in
9 August 1992, or any other related casualty.

10 (13) Any loss sustained as a result of storm, flooding, or any
11 other related casualty that occurred in the Counties of Alpine,
12 Contra Costa, Fresno, Humboldt, Imperial, Lassen, Los Angeles,
13 Madera, Mendocino, Modoc, Monterey, Napa, Orange, Plumas,
14 Riverside, San Bernardino, San Diego, Santa Barbara, Sierra,
15 Siskiyou, Sonoma, Tehama, Trinity, and Tulare, and the City of
16 Fillmore in January 1993.

17 (14) Any loss sustained as a result of a fire that occurred in the
18 Counties of Los Angeles, Orange, Riverside, San Bernardino,
19 San Diego, and Ventura, during October or November of 1993,
20 or any other related casualty.

21 (15) Any loss sustained as a result of the earthquake,
22 aftershocks, or any other related casualty that occurred in the
23 Counties of Los Angeles, Orange, and Ventura on or after
24 January 17, 1994.

25 (16) Any loss sustained as a result of a fire that occurred in the
26 County of San Luis Obispo during August of 1994, or any other
27 related casualty.

28 (17) Any loss sustained as a result of the storms or flooding
29 occurring in 1995, or any other related casualty, sustained in any
30 county of this state subject to a disaster declaration with respect
31 to the storms and flooding.

32 (18) Any loss sustained as a result of the storms or flooding
33 occurring in December 1996 or January 1997, or any related
34 casualty, sustained in any county of this state subject to a disaster
35 declaration with respect to the storms or flooding.

36 (19) Any loss sustained as a result of the storms or flooding
37 occurring in February 1998, or any related casualty, sustained in
38 any county of this state subject to a disaster declaration with
39 respect to the storms or flooding.

(20) Any loss sustained as a result of a freeze occurring in the winter of 1998–99, or any related casualty, sustained in any county of this state subject to a disaster declaration with respect to the freeze.

(21) Any loss sustained as a result of an earthquake occurring in September 2000, that was included in the Governor’s proclamation of a state emergency for the County of Napa.

(22) Any loss sustained as a result of the Middle River levee break in San Joaquin County occurring in June 2004.

(23) Any losses sustained as a result of the fires that occurred in the Counties of Los Angeles, San Bernardino, Riverside, San Diego, and Ventura in October and November 2003, or as a result of floods, mudflows, and debris flows, directly related to fires.

(24) Any losses sustained in the Counties of Santa Barbara and San Luis Obispo as a result of the San Simeon earthquake, aftershocks, and any other related casualties.

(25) Any loss sustained in the Counties of Kern, Los Angeles, Orange, Riverside, San Bernardino, San Diego, and Santa Barbara as a result of the severe rainstorms, and related flooding, slides, and other events, that occurred in December 2004 or January 2005.

(b) (1) In the case of any loss allowed under Section 165(c) of the Internal Revenue Code, relating to limitation of losses of individuals, any excess disaster loss shall be carried forward to each of the five taxable years following the taxable year for which the loss is claimed. However, if there is any excess disaster loss remaining after the five-year period, then the applicable percentage, as set forth in paragraph (1) of subdivision (b) of Section 17276, of that excess disaster loss shall be carried forward to each of the next 10 taxable years.

(2) The entire amount of any excess disaster loss as defined in subdivision (c) shall be carried to the earliest of the taxable years to which, by reason of subdivision (b), the loss may be carried. The portion of the loss which shall be carried to each of the other taxable years shall be the excess, if any, of the amount of excess disaster loss over the sum of the adjusted taxable income for each of the prior taxable years to which that excess disaster loss is carried.

(c) “Excess disaster loss” means a disaster loss computed pursuant to Section 165 of the Internal Revenue Code which exceeds the adjusted taxable income of the year of loss or, if the election under Section 165(i) of the Internal Revenue Code is made, the adjusted taxable income of the year preceding the loss.

(d) The provisions of this section and Section 165(i) of the Internal Revenue Code shall be applicable to any of the losses listed in subdivision (a) sustained in any county or city in this state which was proclaimed by the Governor to be in a state of disaster.

(e) Losses allowable under this section may not be taken into account in computing a net operating loss deduction under Section 172 of the Internal Revenue Code.

(f) For purposes of this section, “adjusted taxable income” shall be defined by Section 1212(b)(2)(B) of the Internal Revenue Code.

(g) For losses described in paragraphs (15) to ~~(24)~~ (25), inclusive, of subdivision (a), the election under Section 165(i) of the Internal Revenue Code may be made on a return or amended return filed on or before the due date of the return (determined with regard to extension) for the taxable year in which the disaster occurred.

SEC. 6. Section 24347.5 of the Revenue and Taxation Code is amended to read:

24347.5. (a) An excess disaster loss, as defined in subdivision (c), shall be carried to other taxable years as provided in subdivision (b), with respect to losses resulting from any of the following disasters:

(1) Forest fire or any other related casualty occurring in 1985 in California.

(2) Storm, flooding, or any other related casualty occurring in 1986 in California.

(3) Any loss sustained during 1987 as a result of a forest fire or any other related casualty.

(4) Earthquake, aftershock, or any other related casualty occurring in October 1987 in California.

(5) Earthquake, aftershock, or any other related casualty occurring in October 1989 in California.

(6) Any loss sustained during 1990 as a result of fire or any other related casualty in California.

1 (7) Any loss sustained as a result of the Oakland/Berkeley Fire
2 of 1991, or any other related casualty.

3 (8) Any loss sustained as a result of storm, flooding, or any
4 other related casualty occurring in February 1992 in California.

5 (9) Earthquake, aftershock, or any other related casualty
6 occurring in April 1992 in the County of Humboldt.

7 (10) Riots, arson, or any other related casualty occurring in
8 April or May 1992 in California.

9 (11) Any loss sustained as a result of the earthquakes or any
10 other related casualty that occurred in the County of San
11 Bernardino in June and July of 1992.

12 (12) Any loss sustained as a result of the Fountain Fire that
13 occurred in the County of Shasta, or as a result of either of the
14 fires in the Counties of Calaveras and Trinity that occurred in
15 August 1992, or any other related casualty.

16 (13) Any loss sustained as a result of storm, flooding, or any
17 other related casualty that occurred in the Counties of Alpine,
18 Contra Costa, Fresno, Humboldt, Imperial, Lassen, Los Angeles,
19 Madera, Mendocino, Modoc, Monterey, Napa, Orange, Plumas,
20 Riverside, San Bernardino, San Diego, Santa Barbara, Sierra,
21 Siskiyou, Sonoma, Tehama, Trinity, and Tulare, and the City of
22 Fillmore in January 1993.

23 (14) Any loss sustained as a result of a fire that occurred in the
24 Counties of Los Angeles, Orange, Riverside, San Bernardino,
25 San Diego, and Ventura, during October or November of 1993,
26 or any other related casualty.

27 (15) Any loss sustained as a result of the earthquake,
28 aftershocks, or any other related casualty that occurred in the
29 Counties of Los Angeles, Orange, and Ventura on or after
30 January 17, 1994.

31 (16) Any loss sustained as a result of a fire that occurred in the
32 County of San Luis Obispo during August of 1994, or any other
33 related casualty.

34 (17) Any loss sustained as a result of the storms or flooding
35 occurring in 1995, or any other related casualty, sustained in any
36 county of this state subject to a disaster declaration with respect
37 to the storms and flooding.

38 (18) Any loss sustained as a result of the storms or flooding
39 occurring in December 1996 or January 1997, or any related

casualty, sustained in any county of this state subject to a disaster declaration with respect to the storms or flooding.

(19) Any loss sustained as a result of the storms or flooding occurring in February 1998, or any related casualty, sustained in any county of this state subject to a disaster declaration with respect to the storms or flooding.

(20) Any loss sustained as a result of a freeze occurring in the winter of 1998–99, or any related casualty, sustained in any county of this state subject to a disaster declaration with respect to the freeze.

(21) Any loss sustained as a result of an earthquake occurring in September 2000, that was included in the Governor’s proclamation of a state of emergency for the County of Napa.

(22) Any loss sustained as a result of the Middle River levee break in San Joaquin County occurring in June 2004.

(23) Any losses sustained as a result of the fires that occurred in the Counties of Los Angeles, San Bernardino, Riverside, San Diego, and Ventura in October and November 2003, or as a result of floods, mudflows, and debris flows, directly related to fires.

(24) Any losses sustained in the Counties of Santa Barbara and San Luis Obispo as a result of the San Simeon earthquake, aftershocks, and any other related casualties.

(25) Any loss sustained in the Counties of Kern, Los Angeles, Orange, Riverside, San Bernardino, San Diego, and Santa Barbara as a result of the severe rainstorms, and related flooding, slides, and other events, that occurred in December 2004 or January 2005.

(b) (1) In the case of any loss allowed under Section 165 of the Internal Revenue Code, relating to losses, any excess disaster loss shall be carried forward to each of the five taxable years following the taxable year for which the loss is claimed. However, if there is any excess disaster loss remaining after the five-year period, then the applicable percentage, as set forth in paragraph (1) of subdivision (b) of Section 24416, of that excess disaster loss shall be carried forward to each of the next 10 taxable years.

(2) The entire amount of any excess disaster loss as defined in subdivision (c) shall be carried to the earliest of the taxable years to which, by reason of subdivision (b), the loss may be carried.

1 The portion of the loss which shall be carried to each of the other
2 taxable years shall be the excess, if any, of the amount of excess
3 disaster loss over the sum of the net income for each of the prior
4 taxable years to which that excess disaster loss is carried.

5 (c) "Excess disaster loss" means a disaster loss computed
6 pursuant to Section 165 of the Internal Revenue Code, which
7 exceeds the net income of the year of loss or, if the election
8 under Section 165(i) of the Internal Revenue Code is made, the
9 net income of the year preceding the loss.

10 (d) The provisions of this section and Section 165(i) of the
11 Internal Revenue Code shall be applicable to any of the losses
12 listed in subdivision (a) sustained in any county or city in this
13 state which was proclaimed by the Governor to be in a state of
14 disaster.

15 (e) Any corporation subject to the provisions of Section 25101
16 or 25101.15 that has disaster losses pursuant to this section, shall
17 determine the excess disaster loss to be carried to other taxable
18 years under the principles specified in Section 25108 relating to
19 net operating losses.

20 (f) Losses allowable under this section may not be taken into
21 account in computing a net operating loss deduction under
22 Section 172 of the Internal Revenue Code.

23 (g) For losses described in paragraphs (15) to ~~(24)~~ (25),
24 inclusive, of subdivision (a), the election under Section 165(i) of
25 the Internal Revenue Code may be made on a return or amended
26 return filed on or before the due date of the return (determined
27 with regard to extension) for the taxable year in which the
28 disaster occurred.

29 SEC. 7. The Legislature finds and declares that this act fulfills
30 a statewide public purpose because of both of the following:

31 (a) The Governor of California has officially proclaimed a state
32 of emergency that declared that the severe rainstorms, and related
33 flooding, slides, and other events, that occurred within the
34 Counties of Kern, Los Angeles, Orange, Riverside, San
35 Bernardino, San Diego, and Santa Barbara during December
36 2004 and January 2005, were natural disasters, thus qualifying
37 affected persons for various forms of governmental assistance
38 and relief.

39 (b) This act is consistent with, and supplements, the proclaimed
40 disaster assistance and relief by providing necessary fiscal

1 assistance and tax relief to affected jurisdictions and persons to
2 allow them to maintain essential basic services and repair
3 damage to, and restore, their homes and businesses.

4 SEC. 8. This act is an urgency statute necessary for the
5 immediate preservation of the public peace, health, or safety
6 within the meaning of Article IV of the Constitution and shall go
7 into immediate effect. The facts constituting the necessity are:

8 In order to timely provide essential relief to those persons and
9 jurisdictions who have suffered damage or loss as a result of the
10 series of severe rainstorms that occurred in California during
11 December 2004 and January 2005, it is necessary that this act
12 take effect immediately.